REMARKS

Claims 1, 2, 4-10 and 13-48 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hawkins et al. (U.S. Patent No. 5,497,317). In the latest Office Action, the Examiner reiterated the prior reasons for rejection.

Applicant believes that the claims as further amended are clearly distinguishable over this reference.

Each of the independent claims have been further amended to recite that the data manipulated by the data processing system is for trades of a security to be executed and not being settled, i.e., the trade is not undergoing any type of settlement action or process.

By defining the type of data that is manipulated within the data processing system, this further adds patentable weight to the functional descriptive material which must be considered as limitations in assessing patentability. Furthermore, by further characterizing the data to be manipulated, this emphasizes the distinctions of the present invention over the prior art. Particularly for the claimed methods of the present invention, Hawkins cannot teach or disclose these claimed methods without Hawkins at least suggesting that the type of data to be manipulated includes data concerning trades to be executed and not being settled. As clearly set forth in the Hawkins reference, the entire invention therein is directed to manipulating information regarding trades that have already occurred and are being settled or have been settled.

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Applicant further traverses the Examiner's rejection based on the arguments previously set forth in the Amendment and Response filed by a Certificate of Mailing on February 24, 2003, and received by the U.S. Patent Office on March 3, 2003. Those arguments are as follows:

As the Examiner is aware, for a rejection under Section 102, absent the prior art reference showing each and every limitation of the rejected claims, the rejection under Section 102 is improper. It is believed that there are numerous limitations which appear in each of the independent claims which are not disclosed in the Hawkins reference, nor would it be obvious to modify the Hawkins reference to include these additional features.

According to the MPEP Section 2106 (IV)(B)(1)(a), when a computer program is claimed in a process where the computer is executing the computer program's instructions, office personnel should treat the claim as a process claim. When a computer program is recited in conjunction with a physical structure, such as a computer memory, office personnel should treat the claim as a product claim. In accordance with MPEP Section 2106 (VI), functional descriptive material is a limitation in the claim and must be considered and addressed in assessing patentability. Thus, a rejection of the claim as a whole under Section 102/103 is inappropriate unless the functional descriptive material would have been suggested by the prior art.

In the present case, each of the independent claims should be treated as either product claims, or process claims. More specifically, Claims 1 and 28 should be treated as product claims, while the remaining independent claims should be treated as process claims. However, even within each of the method/process claims, structural limitations of the computer are recited

therein. Therefore, even the process/method claims could be treated as product claims for the structure recited within these claims.

The features listed within the claims either specifically claim structure, or functional descriptive material corresponding to the functioning of the various computer software programs which operate within the data processing system. Accordingly, as mentioned above, each and every structure and functional descriptive material must be evaluated by the Examiner, and unless the prior art reference identically discloses each and every one of these claimed features, the rejection under Section 102 is improper.

As for Claim 1, the claimed first computer software means corresponds to the coded set of computer instructions referred to in the specification as the representative's version. Among other functionality, the representative's version provides functionality for creating trade data concerning a particular trade to be executed, the trade data being recorded in the form of a trade record. The claimed second computer software means corresponds to the branch manager's version of software which allows a branch manager to view the created data and to approve/disapprove of the trade records. The claimed third computer software means corresponds to the DBMS administrator software which handles many requirements of the system to include common administrative functions. One specific functionality associated with the claimed third computer software means is the ability to prevent unauthorized access and use of the trade data through various security measures such as use of ID/passwords, and encryption/decryption of transmitted data. Claim 1 has been previously amended to incorporate the original limitations of Claim 3, namely, means for monitoring the modification of trade data

in respective trade records. This means for monitoring corresponds to functionality in the first

software means which logs and records changes made to entered trade record data, as fully

explained in the description. Accordingly, an audit of the system may be conducted to include

audit reports which provide a listing of modifications made to a particular trade record (for

example, see Fig. 7).

While the Hawkins reference may generally relate to manipulation of data concerning the

trading of a security, a first and critical distinction between this reference and the claimed

invention relates to the functional descriptive material which is disclosed in Hawkins verses that

of the claimed invention. Specifically, at column 8, lines 6-9 of Hawkins states: "device and

method 10 provides a system for communicating trade settlement information between security

trading participants, but not a system for trading or settling securities" (emphasis added). At

column 9, lines 5-11, Hawkins again states that "in this regard, system 10 does not store or retain

information pertaining to any particular executed trade, but only communicates this information

among the participants."

Accordingly, it is clear that this reference discloses a system which facilitates settlement

of a trade, but does not disclose any system that handles the actual trading of a security or the acts

leading up to the trade. The settlement of the trade includes the acts of exchanging purchase

money for the security, as opposed to the events which lead up to a trade order. The events

leading up to a trade order include various communications between a broker and client, many of

which are regulated by the SEC. The entire set up of the communication system in Hawkins is

directed solely to facilitating the settlement of the trade; accordingly, one of the three participants

which are required in Hawkins is a custodian 16. The custodian 16 corresponds to banks, security depositories, or other settlement agents (column 4, lines 16-17). In fact, each and every piece of correspondence which is handled electronically in Hawkins contemplates the triad of participants who must communicate with one another in order to effectively settle a trade. Accordingly, the content of the communications is handled by the software in Hawkins which has nothing to do with the actual events leading up to execution of a trade order.

In the presently claimed invention, the type of information which is processed in the data processing system specifically corresponds to broker transaction information wherein a broker is communicating with a customer regarding the execution of a trade order, and the functionality in the various computer software programs (i.e., the claimed functional descriptive material) provides the functionality to allow the system to operate as desired. The present invention does not claim or otherwise disclose methods or processes for actually settling a trade, and this is clearly evident by simply noting that there is no mention or discussion of any type of custodian (for example, a bank) within the present invention. As stated above, the first computer software means corresponds to the representative's version which allows a broker to enter data regarding a particular security to be traded, and one specific claimed aspect of this first computer software means is the ability to monitor the modification of trade data. Hawkins has absolutely no disclosure whatsoever corresponding to the claimed first computer software means. Even if an argument could be made that Hawkins discloses, in a very broad sense, a software means for creating trade data concerning a particular trade, Hawkins has absolutely no disclosure regarding any means to monitor the modification of a trade record created by the first computer software

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means. The passages referred to by the Examiner as corresponding to this claimed feature (previously at column 3, lines 11-19; column 4, lines 46-51; and column 5, lines 39-43, and now in the latest Office Action, col. 5, line 39 to col. 6, line 50 and col. 9, lns. 1-15) do not suggest or even imply this claimed feature. What the reference does disclose at column 5, lines 39-42 is that as delivery instruction sets 32 are added to or modified on delivery database 30, alert messages 36 are generated by the central database 24 to inform other brokers 14 and custodians 16 of the delivery instruction changes. As set forth above, delivery instruction sets have nothing to do with actual trade records, and further, the ability to create an alert message 36 does not otherwise imply or suggest the ability to actually monitor modifications of a trade record to include the creation of the trade audit reports and the like.

Hawkins is also deficient with respect to disclosing the claimed second and third computer software means which achieve the functionality set forth above. In fact, Hawkins discloses but a single type of software program which is used by all of the participants in the communication system, there being no distinction or separation between functionality of the software located at the participants. At column 4, lines 46-50, Hawkins simply discloses that each of the terminals of all the participants include application software written in C for maintaining and operating central database 24. Therefore, it is clear within Hawkins, that there is but a single type of software which is installed at each of the participant locations, and the only distinction between the participants is in the content of communication which is sent by the participants for purposes of settling a particular trade.

As for the third computer software means specifically claiming the functionality to maintain security measures, Hawkins does not disclose this feature of the invention. The Examiner states that this type of security measure is disclosed in Hawkins via the security coding system discussed at column 9, line 16. First, it is noted that the only portion of any of the communications within Hawkins which are protected by any security measures is the "security name portion" of trade advice 66. In Hawkins, a special set of databases, referred to as the cross-referenced databases 70 contain the only data in which access is protected by some type of security measure. There is not a single mention of any other security features within Hawkins, and most communications in Hawkins are therefore unsecured.

As for claimed functionality in the second computer software means reciting approving/disapproving of the trade records, the Examiner contends that this feature of the invention is disclosed. (Previously at col. 6, lines 64 - col. 8, line 2, and now in the latest Office Action at col. 7, line 62 - col. 8, line 2, and col. 8, lns. 26-37). The discussion here in Hawkins does not relate to approving/disapproving of trade records as defined in Applicants' invention. Rather, the discussion set forth there in Hawkins discloses a message 64 which is sent by institutions 12 back to brokers 14 to affirm or reject settlement of a trade, however, this communication or message 64 relates to acceptance or rejection of a trade in terms of the financial information about the trade, and not whether to actually execute a trade order.

Finally with respect to Claim 1, the Examiner states that "Hawkins et al. do not explicitly mention software in creating trade data concerning about a particular trade in the form of a trade record, reviewing the trade data, and for approving/disapproving the trade record and maintaining

security measures for data processing system to prevent unauthorized access and use of the trade

data in a numerical order: first, second and third. It is inherent and/or well known to assign

software in a numerical order for inventory, tracking purposes and etc." From this statement by

the Examiner, Applicant believes the Examiner has not correctly interpreted the claimed first,

second and third computer software means. As set forth above, the first, second, and third

computer software means corresponds directly to the various installations of the computer

software in the data processing system, and use of the terms first, second and third has nothing

to do with providing any type of numerical order for purposes of inventory, tracking purposes,

etc. To the extent that the Examiner takes judicial notice of any of the elements which the

Examiner recites in this portion of the Office Action, Applicant also respectfully traverses the

Examiner's findings. It cannot be inherent or well known to create the claimed first, second, and

third computer software means based upon the Examiner's reasons relating to assigning software

in numerical order for various purposes. As stated directly above, numerical order does not

relate to the claimed first, second and third computer software means; rather, these elements refer

to the various installations of computer software within the data processing system.

As for independent Claim 13, the Examiner references his comments with respect to the

discussion set forth for independent Claim 1 and its dependent claims. For Claim 13, there are a

number of steps therein which are not disclosed in Hawkins. As set forth above, Hawkins does

not disclose a system whereby information regarding a particular trade record is exchanged;

rather, the information which is exchanged relates to the settlement of a trade which has already

been executed. Trade records are not manipulated in Hawkins and the participants which are

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disclosed in Hawkins clearly show that there is no method discussed therein relating to managing

and processing broker transaction data as claimed. Therefore, this rejection should be

withdrawn.

As for independent Claims 24 and 26, these claims also specifically claim a method of

managing broker transaction data, and more specifically in the form of e-mail messages. In

Claim 24, it also includes the step of creating an output in the form of a compliance report

reflective of rejected e-mail messages. There is no such report disclosed in Hawkins, and even

though Hawkins discloses the ability to transmit a message 64 to affirm or reject the financial

information regarding a trade, this certainly does not disclose a compliance report which has

been created to flag those rejected e-mail messages containing objectionable subject matter in

accordance with SEC regulations. As with Claim 24, independent Claim 26 also includes the

step of creating an output in the form of a compliance report reflective of rejected e-mail

messages. For the same reason as set forth above with respect to Claim 24, this claimed feature

of Claim 26 is certainly not disclosed in Hawkins. As with the Examiner's rejection of

independent Claim 24, the Examiner does not provide any further reasoning as to why

independent Claim 26 should be rejected other than further arguing that Hawkins discloses e-

mail capabilities. Although Hawkins may disclose capabilities to send e-mails, it is also noted

that the e-mail which is referred to in Hawkins does not even relate to communications regarding

the settlement of a trade: "the receiver- transceivers also may be used for non-settlement

communications among the participants, e.g., by electronic mail, through a message router at the

database". (Col. 3, ls. 29-30) Accordingly, the system described by Hawkins for settlement of a

trade specifically does not include use of e-mail, and any use of e-mail is for non-settlement communications. This is another example in Hawkins of subject matter that teaches away from the claimed invention for independent Claims 24 and 26.

As for the remaining independent Claims 28, 38 and 40, the Examiner again does not provide any additional reasons why these claims should be rejected, and simply references the prior discussion of Hawkins. Among other limitations, Claim 28 like Claim 1 claims the first, second, and third computer software means. For the same reasons as set forth above with respect to Claim 1, these features are clearly not taught or suggested by Hawkins. Claim 28 also specifically claims the transmission control protocol listener which monitors and updates the main server database, and further accepts data entry requests from users to store and retrieve data on the main server database. There is absolutely no discussion or disclosure within Hawkins of any type of transmission control protocol listener which has a functionality to accept data entry requests; rather, data is freely entered and exchanged between the participants, without additional functionality to monitor and update the main database.

As for independent Claim 38, it also specifically claims the first, second and third computer software means as set forth in Claim 1; therefore, for the same reasons as set forth above with respect to Claim 1, Claim 38 is allowable because Hawkins fails to disclose these features. Claim 38 also specifically claims the step of reporting modifications made to the trade data in a display generated by the data processing system. Again, as set forth above, Hawkins not only fails to disclose manipulation of trade data as claimed with the present invention, but also fails to disclose any type of reporting of modifications to the trade data.
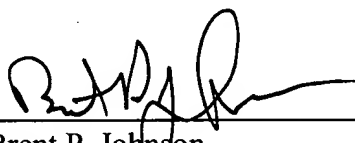
As for independent Claim 40, it has been previously amended to further recite that the step of inputting broker transaction data is achieved by means of a first computer software means, and the step of forwarding an original trade record to a second remote computer for review is facilitated by a second computer software means. Accordingly, the method steps have been amended to specifically recite the first and second computer software means of the invention. For the same reason as set forth above with respect to Claim 1 which also claims the first and second computer software means, Hawkins fails to teach or disclose these aspect of the invention.

Each of the remaining dependent claims depend directly or indirectly from the independent claims discussed above. Each of these dependent claims add further limitations. Therefore, the Examiner's rejection under Section 102 should be withdrawn

Applicant has made a sincere effort to place this application in a condition for allowance, therefore, such favorable action is earnestly solicited.

Respectfully submitted,

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